

## **Section 320 - HIGHWAY OVERLAY DISTRICTS**

### **Section 321. GENERAL**

The Highway Overlay Districts are established as districts which overlay nonresidential zoning districts abutting major arterial highways. There are four such overlay districts: the Regional Center Mixed-Use Overlay (RCP) District, the Mall Center Overlay (MC) district, the Regional Center Overlay (RC) district and the Highway Corridor Overlay (HC) district. The Mall Center Overlay (MC) district overlays a portion of the Regional Center Overlay (RC) district. The Regional Center Mixed-Use Overlay (RCP) District overlays a portion of the Mall Center Overlay (MC) District and a portion of the Regional Center Overlay (RC) District. (Art. 1, S.T.M. #2, 12/3/02) (Art. 1, Fall S.T.M. #1, 10/18/05)

### **Section 322. RELATIONSHIP TO UNDERLYING DISTRICTS AND REGULATIONS**

322.1 The Highway Overlay Districts shall overlay all underlying districts so that any parcel of land lying in a Highway Overlay District shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning By-Law.

322.2 All regulations of the underlying zoning districts shall apply within the Highway Overlay Districts, except to the extent that they are specifically modified or supplemented by other provisions of the applicable Highway Overlay District. For example, the imposition of FAR limitations shall not be construed to replace the existing building coverage requirements of the underlying zoning, modified only by the provisions of Section 324.1 or Section 326.4. Both intensity regulations shall apply. (Art. 1, S.T.M. #2, 12/3/02)

### **Section 323. USE AND OTHER ZONING REGULATIONS**

323. Uses prohibited in the MC, RCP and RC districts:

#### **III-A.2 Use Regulation Schedule**

23. Salesroom for motor vehicles, trailers, boats, farm implements or machinery, with no repair services excluding used-car lots
24. Salesroom for motor vehicles, trailers, boats, farm implements, or machinery, with repair services and storage including used-car lots.
30. Repair garage for motor vehicles
31. Commercial parking lot or parking garage, filling or service station

(Art. 26, A.T.M., 10/4/01) (Art. 1, S.T.M. #2, 12/3/02)

### 323.1 General

323.1.1 The Highway Overlay Districts are herein established as overlay districts. The underlying zoning district permitted or allowed uses remain permitted or allowed. The underlying prohibited uses remain prohibited, unless specifically permitted by this Section 323. Any proposed development or alteration of a parcel within the Highway Overlay District must also comply with all applicable additional requirements of the underlying zoning regulations, as well as with the regulations of the Highway Overlay District.

323.1.2 Lots in a Highway Overlay District exclusively used or zoned for single or two family residential development are exempt from these regulations, regardless of the underlying Zoning District classification.

323.1.3 The MC Overlay District is an overlay district established in that area of Town which is already substantially developed for commercial purposes, but which may be further intensively developed so as to foster the implementation of significant infrastructure improvements within the Town and improve the Town's tax base. (Art. 1, S.T.M. #2, 12/3/02)

323.1.4 To the extent there is inconsistency between provisions of this By-Law applicable to the MC Overlay District and underlying district (including the RC District), the provisions applicable to the MC Overlay District shall govern. (Art. 1, S.T.M. #2, 12/3/02)

323.1.5 All uses permitted or allowed in the underlying zoning districts (including the RC District) shall still be permitted or allowed respectively on land in the MC Overlay District. In addition, hotel and motel use (including serving of food and/or permitted beverages), as well as shopping mall use, shall be permitted in the MC Overlay District. "Shopping mall use" shall include those uses customary in shopping malls, e.g., retail stores, service establishments, restaurants, and entertainment uses, in multiple stores in a building or group of buildings containing no less than two (2) levels (each of which levels is principally devoted to selling or providing service or entertainment to customers), and in which access to the majority of stores is via an enclosed pedestrian mall or malls, and in which no less than thirty-five (35%) percent of the gross floor area leased to tenants is devoted to individual stores having a floor area of less than 15,000 square feet. Access drives

and parking facilities serving such buildings, whether such facilities are below or above ground or below such buildings or in separate structures, located on the same lot or an abutting lot shall also be permitted as an accessory use to such shopping mall use.

(Art. 1, S.T.M. #2, 12/3/02)

323.1.6 Lots in a Highway Corridor (HC) district zoned for single- or two-family residential development with frontage on Worcester Street may double the number of units permitted by the underlying zoning. Structures must comply to the Intensity Regulations Section IV-B in the underlying zoning with the following exceptions: minimum lot depth shall be 90' and maximum building height shall be twenty-eight (28) feet. No detached structures are permitted on these properties. Under the provisions of this section, developers shall be required to contribute to the Town's stock of affordable housing. One affordable housing unit shall be provided on each lot developed under this section. Each such affordable housing unit shall contain at least two (2) or more bedrooms designed for family occupancy, and shall be substantially the same as the market rate units, as set forth in Section III-A.6; or in the alternative the developer may choose to make a gift in the amount of five percent (5%) of the sale price of all units to the Town of Natick for affordable housing purposes, all subject to the approval of the Special Permit Granting Authority. (Art. 2, S.T.M. #2, 12/3/02)

323.1.7 The RCP Overlay District is an overlay district established in respect of land which, because of its location and an existing developed condition, can be redeveloped intensively for a combination of multi-family residential and commercial purposes without a material impact on natural resources and with financial and other benefits to the Town that will result in: An increase in the supply of affordable housing in the Town; Substantial contributions to the acquisition and preservation of open space; and Improvement of the infrastructure of the Town and the region as a whole. The RCP Overlay District shall not be restricted to be a residential district. (Art. 1, Fall S.T.M. #1.10/18/05)

323.1.8 To the extent that there are inconsistencies between the provisions of this By-Law applicable to the RCP Overlay District and the underlying district (including the RC District and the MC Overlay District), the provisions applicable to the RCP Overlay District shall govern even if such provisions are more permissive in the RCP Overlay District than in underlying and other overlay districts. (Art. 1, Fall S.T.M. #1.10/18/05)

323.1.9 All uses permitted or allowed in the underlying zoning districts (including the RC Overlay District and the MC Overlay District) shall be permitted or allowed respectively on land in the RCP Overlay District. The portion of a Regional Center Mixed-Use Development devoted to multi-family residential use shall be permitted only by special permit and site plan approval of the Planning Board granted under Section 320 and Section VI-DD. Such special permit may authorize the use of parking spaces located on other parcels in the Regional Center Mixed-Use Development to satisfy the parking requirements for buildings located on other parcels in the Regional Center Mixed-Use Development. The Planning Board shall have the authority to include in any such special permit conditions obligating the applicant to fund the reasonable cost of any special equipment or training that may be required for personnel of town departments to mitigate public-safety impacts of such multi-family residential use. The Planning Board shall also have the authority, by issuance of a special permit therefor, to allow the Affordable Housing Standard to be met through the use of off-site affordable units.

The portion of a Regional Center Mixed-Use Development devoted to shopping mall use shall be permitted by special permit and site plan approval of the Planning Board granted under Section 320 and Section VI-DD.

(Art. 1, Fall S.T.M. #1, 10/18/05)

### 323.2 Mixed-use Developments

Mixed-use developments are specifically allowed in a Highway Overlay District to the extent that each individual use is allowed in the district.

The provisions of Section 323.1.9, and not this section, shall be applicable to a mixed-use development, including the residential component, in a Regional Center Mixed-Use Development. (Art. 1, Fall S.T.M. #1, 10/18/05)

### 323.3 Certain Multi-family Residential Uses

In the RC district, hotels, motels, Assisted Living Residences\*, Elderly Family Residences\* may be allowed by Special Permit granted by the Planning Board, subject to all requirements of the underlying district(s), and modified by the dimensional and other intensity regulations of Sections 324 and 326. Combinations of such residential and non-residential uses may also be allowed in the RC district, subject to the requirements of each individual use as set forth elsewhere in this Bylaw. (Art 5, S.T.M. #2, 10/10/00) (Art. 9, S.T.M. #2, 11/1/16) (Art. 11, S.T.M.#2, 11/1/16) (Art. 32, Fall TM 10/16/18)

The provisions of Section 323.1.9, and not this section, shall be applicable to a mixed-use development, including the residential component, in a Regional Center Mixed-Use Development. (Art. 1, Fall S.T.M. #1, 10/18/05)

\* Affordability Requirements: All development in a Highway Overlay District shall be subject to and consistent with the provisions of Section V-J unless a determination has been made satisfactory to the SPGA that living units of Assisted Living Residences and Elderly Family Residence do not affect the Town's Statutory Minima or the Town's Computation of Statutory Minima as defined and/or set forth in 760 CMR 56 as maintained by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD).  
(Art. 11, S.T.M.#2, 11/1/16) (Art. 52, F.T.M. 10/17/17) (Art. 32, Fall TM 10/16/18)

#### 323.4 - Adult Uses

Adult Uses shall be allowed in the RC district only upon the grant of a special permit by the Planning Board acting as the Special Permit Granting Authority ("SPGA"), subject to the following limitations:

323.41 Land in the RC district in which the underlying zoning is Highway Mixed Use III (HM-III) is specifically excluded.

323.42 The underlying zoning district permits a retail store use, or a variance has been issued permitting such retail store use, in the premises in which the proposed adult use is to take place.

323.43 The premises in which the proposed adult use is to take place is located a distance of at least three hundred (300') feet from: the Town boundary line or a residential district zone boundary line; or from a church; or from: a public or private: school, park, playground or day care facility.

323.44 No premises containing an adult use shall be located within five hundred (500') feet of any other premises containing an adult use.

323.45 No premises containing an adult use shall be located in any premises having a liquor license.

323.46 No special permit for an adult use shall be issued to any person convicted of violating the provisions of M.G.L., chapter 119, section 63, or of chapter 272, section 28.

323.47 The permitted adult uses described herein specifically excluded disseminating or offering to disseminate to minors materials which depict, describe or relate to nudity or sexual

conduct as defined in M.G.L, chapter 272, section 31, or allowing minors to view live entertainment which includes the display of nudity. Permitting minors to view displays or linger in an area of the premises where such materials are located, or where such live entertainment is presented, shall be deemed evidence of violation of this action.”

323.48 No materials described in the definitions of adult uses in this Bylaw that depicts, describes or relates to nudity or sexual conduct as defined in M.G.L., chapter 272, section 31, shall be so located in or on the building housing such adult use which is visible to the public from the outside of the premises in which an adult use is permitted. No advertising, or other materials, whether displayed in the window or affixed to the building shall be permitted which depicts, describes or relates to nudity or sexual conduct as defined in M.G.L., chapter 272, section 31.

#### 323.5 - Prior existing Adult Uses

Any adult use in existence prior to the adoption of this Section 323.5 shall apply for a special permit from that SPGA having jurisdiction, according to the SPGA designation provided for under Section VI-DD, within ninety days following the adoption of this Section. Special Permits issued under the Section 323.5 shall be subject to the following conditions:

323.51 The square footage in the premises occupied by the prior existing adult use, the percentage of revenues attributable to the display of live nudity and the percentage of the time devoted by a business to the provision of live entertainment for its patrons, which includes the display of live nudity, which exists as of the date that this Section 323.5 was adopted, shall not be permitted to be increased thereafter unless the adult use was in existence in the RC district.

323.52 The application for a special permit under this Section 323.5, in addition to complying with the requirements of the rules and regulations of the SPGA shall provide the following information: name and address of the legal owner of the premises; name and address of all persons having an equity interest in the adult use business being conducted on the premises; name and address of the manager of the adult use business; the number of employees, a plan of the premises showing the location of that portion thereof in which the adult use is taking place, i.e. square footage of floor space; information necessary to determine what percentage of the business inventory is represented by materials for sale, rental or display at any point in time which are distinguished or characterized

by an emphasis on matter depicting, describing, relating to, or associated with, sexual conduct or sexual excitement as defined in M.G.L., chapter 272, section 31; the percentage of revenues attributable to the display of live nudity; and the percentage of the time devoted by a business to the provision of live entertainment for its patrons, which includes the display of nudity.

#### 323.6 - Savings clause:

If any provision, clause, section or other part of Sections 323.4 or 323.5 shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of these Sections shall not be affected thereby, but shall remain in full force and effect.

(323.4, 323.5 & 323.6 --- Art. 48, Spring A.T.M., 4/17/97)

#### 323.7 Wireless Communication Facilities

In the Regional Center district or MC Overlay District, Wireless Communication Facilities, including FSWCF, BMWCF, IWCF AND ACWF, but excluding lattice towers, may be allowed by Special Permit granted by the Planning Board. (Art. 30, Fall ATM, 10/8/98) (Art. 1, S.T.M. #2, 12/3/02)

#### 323.8 Registered Marijuana Dispensaries.

##### 323.8.1 Purposes

To provide for the establishment of Registered Marijuana Dispensaries in appropriate places and under conditions in accordance with the passage of Chapter 369 of the Acts of 2012, an Act for the Humanitarian Medical Use of Marijuana. See also Appendix Sections 1-1, et seq., to Chapter 94C of the Massachusetts General Laws.

To minimize the adverse impacts of Registered Marijuana Dispensaries on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said dispensaries.

To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Registered Marijuana Dispensaries.

##### 323.8.2 Applicability

The commercial cultivation (unless it meets the requirements for an agricultural exemption under Chapter 40A, Section 3 of the Massachusetts General Laws), production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana for medical use is prohibited unless allowed by special

permit as a Registered Marijuana Dispensary under Chapter 40A, Section 9 of the Massachusetts General Laws and this Section 323.8.

No Registered Marijuana Dispensary shall be established except in compliance with the provisions of this Section 323.8.

Nothing in this By-Law shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

#### 323.8.3 Definitions

“Debilitating medical condition” shall mean cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient’s physician.

“Marijuana” shall have the same meaning given as “marihuana” in Chapter 94C of the Massachusetts General Laws.

“Marijuana for medical use” shall mean marijuana that is designated and restricted for use by, and for the benefit of, qualifying patients in the treatment of debilitating medical conditions.

Registered Marijuana Dispensary” shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under Chapter 369 of the Acts of 2012, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies to qualifying patients or their personal caregivers.

#### 323.8.4 General Requirements and Conditions

323.8.4.1 Registered Marijuana Dispensaries, other than agricultural operations meeting the requirements for an exemption under Chapter 40A, Section 3 of the Massachusetts General Laws, may be allowed in the RC District by special permit issued by the Planning Board provided that the Registered Marijuana Dispensary meets the requirements of this Section 323.8.

323.8.4.2 No Registered Marijuana Dispensary shall be located on land in the RC District in which the underlying zoning is Highway Mixed Use III (HM III).

323.8.4.3 No Registered Marijuana Dispensary shall be located within five hundred (500) feet of any other premises containing a Registered Marijuana Dispensary.



323.8.4.4 No Registered Marijuana Dispensary shall be located in any premises for which an alcoholic beverages license has been issued.

323.8.4.5 No Registered Marijuana Dispensary shall be located inside a building containing residential units, including single family housing, multi-family housing, and transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.

323.8.4.6 No Registered Marijuana Dispensary shall be located in a building that contains the office of any medical doctor or the office of any other professional practitioner authorized to prescribe the medical use of marijuana.

323.8.4.7 All Registered Marijuana Dispensaries shall be contained within a building or structure.

323.8.4.8 No Registered Marijuana Dispensary shall be located on a lot which is located within three hundred (300) feet of a Town of Natick boundary line, or a residential zoning district boundary line.

323.8.4.9 No Registered Marijuana Dispensary shall have a gross floor area of less than two thousand five hundred (2,500) square feet or in excess of twenty thousand (20,000) square feet.

323.8.4.10 The hours of operation of Registered Marijuana Dispensaries shall be set by the Planning Board, but in any event no Registered Marijuana Dispensary shall be open and/or operating between the hours of 8:00 PM and 8:00 AM.

323.8.4.11 No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Registered Marijuana Dispensary.

323.8.4.12 Signage for the Registered Marijuana Dispensary shall include the following language: "Registration card issued by the MA Department of Public Health required". The required text shall be a minimum of two (2) inches in height.

323.8.4.13 Registered Marijuana Dispensaries shall provide the Natick Police Department, Natick Board of Health, Natick Building Commissioner, and Natick Planning Board with the names, phone numbers and email addresses of all management staff and key holders to whom the Town of Natick can provide notice if there are

emergencies or operating problems associated with the Registered Marijuana Dispensary.

#### 323.8.5 Special Permit Requirements

323.8.5.1 A special permit for a Registered Marijuana Dispensary shall be limited to one (1) or more of the following uses:

- a) cultivation of marijuana for medical use;
- b) processing and packaging of marijuana for medical use, including marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products; or
- c) retail sale or distribution of marijuana for medical use to qualifying patients.

323.8.5.2 An application for a special permit for a Registered Marijuana Dispensary shall include the following:

- a) the location of the proposed Registered Marijuana Dispensary, including the street address, and the floors(s) and unit number(s) to be occupied;
- b) the proposed use of the subject Registered Marijuana Dispensary;
- c) the name and address of each owner of the Registered Marijuana Dispensary;
- d) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Registered Marijuana Dispensary;
- e) evidence of the applicant's right to use the proposed site for the Registered Marijuana Dispensary, such as a lease or consent of the property owner;
- f) if the applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, and officers, and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of the owners of such entities;
- g) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent Town of Natick tax list and certified by the Town of Natick Assessor; and
- h) Proposed security measures for the Registered Marijuana Dispensary, including lighting, fencing, gates, surveillance equipment, alarms, etc., to ensure the safety of persons, deliveries and transfers and to protect the premises from theft.

#### 323.8.5.3 Mandatory Findings

In addition to the findings otherwise required by law for issuance of

a special permit, the Planning Board shall not issue a special permit for a Registered Marijuana Dispensary unless it finds that:

- a) the Registered Marijuana Dispensary demonstrates that it shall meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and shall be in compliance with all applicable state laws and regulations; and
- b) the applicant has satisfied all of the conditions and requirements of this Section 323.8.

#### 323.8.5.4 Term

A special permit granted under this Section 323.8 shall have a term limited to the duration of the applicant's ownership of, or leasehold interest in, the premises as a Registered Marijuana Dispensary. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit with all information required in this Section

323.8.5.5 Annual Reporting. Each Registered Marijuana Dispensary permitted under this By-Law shall as a condition of its special permit file an annual report with the Natick Board of Health, the Natick Community Development Department, and the Natick Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Registered Marijuana Dispensary and/or its owners and demonstrating continued compliance with the conditions of the special permit.

#### 323.8.5.6 Abandonment or Discontinuance of Use

323.8.5.6.1 A special permit issued under this Section 323.8 shall lapse if not exercised within one (1) year of issuance.

323.8.5.6.2 A Registered Marijuana Dispensary shall be required to remove all plants, equipment, supplies and materials related to the Registered Marijuana Dispensary:

- a) prior to surrendering its state issued licenses or permits; or
- b) within three (3) months of ceasing operations; whichever comes first.

#### 323.8.6 Invalidity

If any provision of this Section 323.8 or the application of any such provision to any person or circumstance shall be determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remainder of this Section 323.8 shall continue in effect, to the extent permitted by law.

(Art. 12, S.T.M., 4/8/14)

## **Section 324. INTENSITY REGULATIONS**

### **324.1 Base Floor Area Ratio (FAR) for Nonresidential Development in the RC, HC and MC Districts:**

For any nonresidential development, the floor area ratio (FAR) shall not exceed 0.32, except as modified in this Section 324. The base FAR of 0.32 shall supersede any existing building coverage limitation in the underlying zoning district which would have the effect of reducing the base FAR to a value lower than 0.32, e.g. in the Commercial II Zoning District the present intensity regulation only allows for building coverage of 30%, which would now be increased to 32% for one story buildings on lots in the RC or HC Districts. However, all non-residential development shall still be subject to the requirements of all other applicable zoning regulations in the underlying zoning district.

(Art. 1, S.T.M. #2, 12/03/02)

### **324.2 Increase in FAR for New Construction with Public Benefit Amenities in the RC District and in Highway Mixed or Planned Use Developments of 10 or more Acres in the HC District:**

The Planning Board, may, by Special Permit, grant an increase in the maximum floor area ratio (FAR) above 0.32, up to a higher FAR in the following instances:

Up to a maximum FAR of 0.50 for parcels located in the Regional Center (RC) overlay zoning district;

Up to a maximum FAR of 0.40 for parcels located in the Highway Corridor (HC) overlay zoning district having a size of 10 or more acres, and where the underlying zoning is Highway Mixed Use I, II or III districts (HM-1, HM-2, HM-3), or is Highway Planned Use district (HPU), or where a portion of the parcel lies outside those underlying zoning districts but is used for building, parking, detention or retention basins, or other uses associated with any project or development which uses 10 or more acres in the HC district.

The foregoing increases in FAR shall be subject to the requirements following hereafter.

324.21 Increased pervious landscape surface shall be provided in accordance with Section 325.2.

324.22 Public benefit amenities shall be provided as required herein, and the increase in permitted floor area shall be determined

in accordance with the schedule of bonuses set forth in Section 328. A FAR increase shall be granted only if the Board makes the findings required in Section 324.9.

(Art. 5, S.T.M. #2, 10/10/00)

#### 324.3 Increase in FAR for Consolidation of Lots in the RC or HC Districts:

In order to encourage consolidation of lots, the Planning Board may, by Special Permit, grant an increase in the floor area ratio above 0.32. Such increase in FAR shall not exceed 20% of the combined gross floor area of the buildings on the lots to be consolidated, up to a maximum FAR of 0.40, or an increase of 12,000 square feet, whichever is the lesser. A FAR increase shall be granted only if the Board makes the findings required in Section 324.9 and determines that the proposed consolidation will achieve the Objectives and Standards following hereafter.

##### 324.31 Objectives and Standards

324.311 The coordinated development shall be designed to reduce the number of curb cuts and signs and to provide access improvements, unified landscaping, and a higher standard of site design than would be possible with separate development of the individual lots.

324.312 Only lots which were in separate ownership as of January 1, 1992 may be consolidated for purposes of qualifying for a FAR increase in a Highway Overlay District.

324.313 The coordinated development need not involve consolidation of ownership. However, the continued use of improvements achieved through consolidation must be guaranteed through appropriate mechanisms (such as easements).

#### 324.4 Increase in FAR for Projects Involving Minor Alterations in the RC or HC Districts:

The Planning Board may, by Special Permit, grant an increase in the existing FAR over 0.32 for minor alterations up to the maximum FAR permitted under these Highway Overlay District regulations. Such increase shall be granted only if the Planning Board makes findings required in Section 324.9. A special permit is not required for a minor alteration which does not exceed a FAR of 0.32, unless so required

elsewhere in Section 320 et seq., or so required under the underlying zoning district regulations. (Art. 5, S.T.M. #2, 10/10/00)

#### 324.5 Maximum FAR for Multi-family Residential Developments:

The Planning Board may permit a FAR up to 0.55 in those certain multi-family residential developments as described in Section 323.3. (Art. 5, S.T.M. #2, 10/10/00)

In the RCP Overlay District in respect of a residential project which provides units, on or off the parcel, as applicable, in accordance with the Affordable Housing Standard, the Planning Board may permit a FAR up to 1.00 solely for a Regional Center Mixed-Use Development that meets the Affordable Housing Standard. This provision shall not be applicable to Multi-Family Residential Uses permitted under 323.3. (Art. 1, Fall S.T.M. #1, 10/18/05)

#### 324.6 Areas Excluded from FAR Computation:

The floor area of the following types of facilities shall not be included in the gross floor area of a structure or structures for the purposes of computing the floor area ratio on a parcel in the MC, RCP, HC or RC district: (Art. 1, Fall S.T.M. #1, 10/18/05)

324.6.1 Day care facilities licensed by the State Office for Children.

324.6.2 Off-street parking facilities and associated ramps and aisles.

324.6.3 Facilities dedicated to public or private transit facilities, or to trip reduction activities such as carpooling and vanpooling. Such facilities may include waiting areas, ticket offices or offices for the administration of transportation management and trip reduction activities.

324.6.4 Cafeterias intended primarily to service occupants of a structure at the site.

324.6.5. All square footage contained in a hotel or motel shall not be included in the gross floor area.

324.6.6 In the MC Overlay District the following shall not be included in gross floor area for computing the floor area ratio:

324.6.6.1 Equipment rooms, including rooms containing heating, air conditioning or other mechanical equipment servicing a permitted or allowed use, and offices devoted to operational

matters of a shopping mall, including rest rooms and waiting or rest areas.

324.6.6.2 Areas of a shopping mall building (including pedestrian bridges) not devoted to occupancy by a tenant or occupant, which are principally intended to provide access between stores, even though vendors may, from time to time, maintain kiosks or other portable displays therein shall not be included in the gross floor area, provided, however, that the floor area actually occupied by such kiosks or any display fixture shall be included in the gross floor area to the extent such occupied areas exceed 10% of such access areas.

324.6.7 Areas of a building within a Regional Center Mixed-Use Development devoted to residential use other than for the exclusive occupancy of an individual tenant or occupant.  
(Art. 1, Fall S.T.M. #1, 10/18/05)

(Art. 1, S.T.M. #2, 12/3/02)

324.7 FAR for Mixed-use and Mixed-Zoning District Developments:

Except for a Regional Center Mixed-Use Development, the following regulations shall apply to proposed developments on parcels which include both residential and non-residential zoned lots or portions thereof, or which include both residential and non-residential uses:  
(Art. 1, Fall STM #1, 10/18/05)

324.71 Developments on parcels which include lots permitting both residential and non-residential uses, where such proposed developments will include residential floor area and non-residential floor area:

Non-bonus projects:  $\text{Maximum FAR} = (\text{Non-residential floor area percentage} \times 0.32) + (\text{Residential floor area percentage} \times 0.55)$

Bonus projects:  $\text{Maximum FAR} = (\text{Non-residential floor area percentage} \times 0.40) + (\text{Residential floor area percentage} \times 0.55)$

324.72 Developments on parcels that include at least one residentially zoned lot, as well as lots permitting non-residential uses, where such proposed developments will consist of only non-residential floor area:

Projects which include combinations of residentially zoned lot(s), as well as non-residentially zoned lot(s) located contiguous to such residentially zoned lot(s); and in which no construction of new residential floor area is proposed by the project, shall be required to:

324.721- Remove all existing structures on the residentially zoned lot(s). In addition, no new structures or commercial parking shall be placed on the residentially zoned lot(s).

324.722- Provide open space for public ownership, or exclusive long term use, in an amount equal to three times the area of the residentially zoned lot(s) to be added to the Project [hereinafter, "Compensating Open Space"]. Such Compensating Open Space to be so provided shall contain not more than twenty (20%) percent wetland, and shall be of such quality, in the opinion of the Planning Board, as to be able to accommodate active Park use as defined in Section 200. The Compensating Open Space may have any zoning classification. The Planning Board may waive the twenty (20%) percent wetland limitation if it makes a finding that the Park would be enhanced by permitting a larger percentage of wetland, not to exceed fifty (50%) percent of the Compensating Open Space.

324.723- In the event such Compensating Open Space is not offered at the time of the application, nor offered during the hearing on same, and evidence is submitted by the applicant satisfactory to the Planning Board that after reasonable efforts the applicant was unable to obtain such Compensating Open Space either in any amount, or in a lesser amount than required by paragraph 324.7.2.2, then applicant shall provide "Adequate Security" for the acquisition of such Compensating Open Space. Such Adequate Security shall be provided by a bond or surety agreement, a letter of credit, a tri-partite agreement including a bank as a contracting party, a deposit of monies or negotiable securities, or other similar arrangement sufficient in the opinion of the Planning Board to secure the performance of the condition of providing Compensating Open Space.

324.724- The amount of such Adequate Security, where the event described in Section 324.7.2.3 occurs, shall be equal to the percent of Compensating Open Space that will not be so provided times 1.5 times the "Residential Market Value"



of the area of the residentially zoned land which is included in the Parcel, where "Residential Market Value" is defined as follows:

the market value of the area of the residentially zoned land in the parcel determined as if such land contains no wetland; is devoid of structures or pollution of any kind; and is based on the total land area divided by the minimum residential lot area in the district, without adjustment for roads and/or access ways.

Such calculation shall be subject to review and approval by the Planning Board.

(Art. 5, S.T.M. #2, 10/10/00)

#### 324.8 Density on Parcels Where Portion Dedicated to Town or Commonwealth:

Subject to the other provision of this section, if the owner of a parcel, with the concurrence of the Planning Board, dedicates to the Town or the Commonwealth a portion of the parcel for public ownership as a bonus facility, then the permissible density at which the remainder of the parcel may be developed shall be based on the total parcel area including the area so dedicated.

#### 324.9 Findings Required for a FAR Increase:

In granting a FAR increase over the base FAR, as well as any increase in the FAR where a special permit with site plan review is required under Sections 320 et seq., the Planning Board shall make a specific finding, in writing, that the following conditions are met: (Art. 5, S.T.M. #2, 10/10/00)

324.9.1 That the increase in FAR shall not result in a development which is substantially more detrimental to the neighborhood than the existing structure or use. In the case of new construction, that the increase in FAR shall result in a development that shall not be substantially more detrimental to the neighborhood than the project at the base FAR of 0.32.

324.9.2 The increase will achieve the goals, objectives and intent of these Highway Overlay District Regulations.

324.9.3 The increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as

compared with the degree of compliance present in the existing development. In the case of new construction, the increase will achieve compliance with these Highway Overlay District Regulations to a substantially greater degree as compared to development at the base FAR of 0.32.

324.9.4 The proposed consolidation of lots for development purposes, or minor alteration of a structure, satisfies all of the criteria and standards of Section VI-DD Site Plan Review.

#### 324.10 Increased FAR for Parcels in MC Overlay District

324.10.1 In order to foster redevelopment of parcels in the MC Overlay District that will provide for substantial infrastructure improvements and significant additions to the Town's tax base, the Planning Board may grant special permits to increase the FAR to .60 for one or more parcels (or portions thereof) concurrently which are in the MC Overlay District, containing not less than 40 contiguous acres (either as an individual parcel or in combination), when the requirements of Section 324.10.2 are met and the bonus requirements of Section I of Bonuses are satisfied. Where such parcels (or portions thereof) are in separate ownership, the owners thereof shall join in the application for such special permit, but such parcels (or portions thereof) need not be combined under the Subdivision Control Law nor shall be treated as a single parcel for purpose of the application of the other requirements of this zoning by-law and may be used and further developed independently of each other except that the FAR of such parcels (or portions thereof) in the aggregate shall not exceed the FAR authorized under such special permits.

For purposes of the application of the bonus requirements of Section 328.3 to developments in the MC Overlay District for which such special permits are requested, the bonus requirements shall be applicable only to the extent the proposed FAR on all parcels included in the applications for such special permits exceed the then existing FAR of such parcels. If existing buildings are demolished, the bonus requirements shall not be applicable to the FAR for new construction to the extent of the floor area of the buildings so demolished.

The applicants under such a special permit may also elect, if the FAR of one of the parcels is less than .32, to allocate the excess floor area that could be developed on such parcel without exceeding FAR of .32 to the other parcels included within such application. The allocation of such excess floor area shall be set forth in such special permit and no bonus requirement need be fulfilled in connection therewith; provided, however, that any further construction on the parcel whose excess floor area is allocated to such other parcel shall be treated as if such excess floor area had been constructed on the parcel from which it is allocated.

324.10.2 In granting a special permit for an increase in FAR under Section 324.10.1, the Planning Board shall make, in lieu of the finding required in Section 324.9, a specific finding, in writing, that the following conditions are met:

- .1 the parcel (or if parcels, the parcels in the aggregate) included in such application have an existing FAR in excess of .32;
- .2 that the increase in FAR shall not result in a development which is substantially more detrimental to the neighborhood than the use of the lots as then improved;
- .3 the increase will achieve the goals, objectives and interests of the MC Overlay District regulations; and
- .4 the project, with such increased FAR, shall satisfy all of the criteria and standards of Section VI-DD Site Plan Review.

(Art. 1, S.T.M. #2, 12/3/02)

## **Section 325. OPEN SPACE REQUIREMENTS**

325.1 Single Use Projects:

325.1.1- Base Landscape Surface Ratio (LSR) in any Highway Overlay District:

The minimum required landscape surface ratio (LSR) for projects having a FAR of 0.32 or less shall be:

- 0.20 for retail, consumer service and manufacturing uses,
- 0.30 for those certain multi-family residential developments in the RC district as described in Section 323.3, and
- 0.40 for office, research and development and other similar non-retail, non-residential uses.

325.1.2- Increase in Landscape Surface Ratio (LSR) required for Bonus Projects in any Highway Overlay District:

The minimum required landscape surface ratio (LSR) for projects having a FAR greater than 0.32 shall be the sum of:

(the base LSR determined by Section 325.1.1) +  
(one-half of the difference between the proposed FAR and 0.32)

325.1.3 Notwithstanding any other provision in this Section 325, the minimum landscape surface ratio for projects in an MC Overlay District shall be 0.25, regardless of the FAR. In calculating the LSR in an MC Overlay District, the numerator of the LSR shall include pervious and landscaped areas, including areas in a parking structure that are utilized for landscaped areas, such as planting structures containing plant material. In calculating the LSR in an MC Overlay District, where two or more parcels are being redeveloped for shopping mall use and one of the parcels has been devoted to shopping mall use, the LSR for the parcels, on a combined basis, shall be no less than 0.20 as long as the LSR for each of the parcels prior to the redevelopment is not reduced and for the parcel being converted to shopping mall use, the LSR is at least 0.25. (Art. 1, Fall STM #1, 10/18/05)

(Art. 1, S.T.M. #2, 12/3/02)

325.2 Mixed-use Projects:

The minimum required LSR for mixed-use developments (other than for a Regional Center Mixed-Use Development) shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

(Art. 1, S.T.M. #1, 10/18/05)

325.2.1- Projects having an FAR of 0.32 or less:

The minimum required landscape surface ratio (LSR) for projects having a FAR of 0.32 or less shall be equal to the:

$$\begin{aligned} &[(\text{Percentage of floor area for retail, consumer service and} \\ &\text{manufacturing uses}) \times 0.20] + \\ &[(\text{Percentage of floor area for certain multi-family residential} \\ &\text{development in the RC district as described in Section 323.2}) \times \\ &0.30] + \\ &[(\text{Percentage of floor area for office, research and development and} \\ &\text{other similar non-retail, non-residential uses}) \times 0.40] \end{aligned}$$

325.2.2- Projects having an FAR greater than 0.32:

The minimum required landscape surface ratio (LSR) for projects having a FAR greater than 0.32 shall be equal to:

(the minimum LSR determined in accordance with Section 325.2.1) +  
(the proposed FAR – 0.32)/2

### 325.3 Deficiencies in LSR

#### 325.31- Multi-family residential developments:

For multi-family residential developments only, up to ten percent (10%) of the required landscape surface area may consist of impervious recreational facilities, e.g. tennis courts, swimming pools, etc.

#### 325.32- Deficiency in LSR in the RC District:

In connection with the redevelopment of a Parcel only for office, research and development and other similar non-retail, non-residential uses in the RC district, where one or more prior-existing structures are to remain, a proposed new or revised Final Site Plan may show a deficiency from the required minimum LSR (hereinafter, the “LSR Deficiency”). The LSR Deficiency shall be determined in square footage, and shall be = [(the minimum required LSR calculated under either of Sections 325.1 et seq. or 325.2 et seq.) – (the LSR shown on the proposed new or revised Final Site Plan)] times (the denominator of the Landscape Surface Ratio for the Parcel).

#### 325.321- Deficiency satisfied by Compensating Landscaping.

The minimum LSR required by either of Sections 325.1 et seq. or 325.2 et seq. may alternatively be satisfied by providing pervious landscaping or natural vegetated areas, devoid of wetlands (hereinafter, “Compensating Landscaping”), elsewhere than on the Parcel with the permission of the owner of the receiving parcel, in an area equal to the LSR Deficiency. Such Compensating Landscaping may have any zoning classification. The Planning Board may reject an offer of Compensating Landscaping and require compliance with Section 325.3.2.2 if it makes a finding that the proposed location of such Compensating Landscaping does not enhance the adjacent uses or is not substantially visible from adjacent roadways.

#### 325.322- Deficiency satisfied by providing Adequate Security.

The minimum LSR required by Sections 325.1 et seq. or 325.2 et seq. for the redevelopment of a Parcel in the RC district for office, research and development and other similar non-retail, non-residential uses, may alternatively be satisfied if an Adequate Security is provided, calculated, as described in Section 324.7.2.3, in an amount equal to the LSR Deficiency x \$15 for all redevelopment which expands the footprint of the existing building(s) which decreases the LSR; and the LSR Deficiency x \$2 for all redevelopment which retains or increases the existing LSR. Notwithstanding the foregoing, the Planning Board may require that a minimum LSR of 0.30 be attained on the redeveloped Parcel, provided that adequate parking is available on site to serve the proposed uses.

**325.4 Mixed-use Projects:**

The minimum required LSR for mixed-use developments (other than for a Regional Center Mixed-Use Development) shall be computed as a blended ratio of the LSR requirements applying to the individual components of the development, as follows:

(Art. 1, Fall S.T.M. #1, 10/18/05)

**325.41 Nonbonus projects:**

Minimum LSR = (Retail or service floor area percentage x 0.20) + (office, R & D, manufacturing or other non-retail, non-residential uses floor area percentage x 0.40) + (Residential floor area percentage x 0.30)

**325.42 Bonus projects:**

Minimum LSR = [(Retail or service floor area percentage x 0.20) + (Office, R & D, manufacturing or other non-retail, non-residential uses floor area percentage x 0.40) + (Residential floor area percentage x 0.30)] + (Proposed FAR - 0.32)/2 (Art. 5, S.T.M. #2, 10/10/00)

**325.5 Regional Center Mixed-Use Development:** The minimum required LSR for a parcel devoted to a Regional Center Mixed-Use Development (inclusive of the shopping mall and residential components) shall be no less than 25%, regardless of FAR. In calculating the LSR in a RCP Overlay District, the numerator of the LSR shall include pervious and landscaped areas, including areas in a parking structure or on roofs of parking structures adjacent to ground level that are utilized for landscaped areas, such as planting structures containing plant material. (Art. 1, Fall S.T.M. #1, 10/18/05)

## Section 326. DIMENSIONAL REGULATIONS

### 326.1 Height:

326.11 Height limitations in the HOD shall be as specified for the underlying zoning district(s), except as modified below.

326.12 Except for structures on a lot abutting town owned land whose height shall be determined by the underlying zoning regulations, or for structures in a Regional Center Mixed-Use Development or for structures in a MC Overlay District, the maximum height of structures located adjacent to residential zoning districts or residential uses shall be as follows: (Art.1, S.T.M. #4, 10/5/93) (Art. 1, Fall S.T.M. #1, 10/18/05)

326.13 For a Regional Center Mixed-Use Development, the height limitation for shopping mall buildings shall be 80 feet measured from the adjacent average finished grade. The residential buildings in a Regional Center Mixed-Use Development shall conform to the following limitations: Any building or portion thereof located less than 400 feet from a public way shall not exceed more than eighty (80) feet in height measured from the adjacent averaged finished grade. For buildings located more than 400 feet from a public way: (Art. 1, Fall S.T. M. #1, 10/18/05)

No more than 40% of the roof area of the building shall exceed:	85 feet measured from the center line of the adjacent public way and 105 feet measured from the averaged finished grade adjacent to the building
No more than 20% of the roof area of such a building shall exceed:	100 feet measured from the center line of the adjacent public way and 120 feet measured from the averaged finished grade adjacent to the building and provided the roof area within such height limit is set back at least 600 feet from a public way

Other than as authorized under Section IV-A.5 of the General Requirements, no portion of the building shall exceed:	120 feet measured from the center line of the adjacent public way and 140 feet measured from the averaged finished grade adjacent to the building
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326.14 In an MC Overlay District (except in the case of a Regional Center Mixed-Use Development), no building or portion thereof shall exceed more than eighty (80) feet in height.  
(Art. 1, Fall S.T.M. #1, 10/18/05)

Distance from Residential Use/District

Maximum Building Height

less than 50 feet	30 feet
equal to or greater than 50 but less than 200 feet	40 feet
equal to or greater than 200 but less than 300 feet	50 feet
equal to or greater than 300 but less than 400 feet	60 feet
equal to or greater than 400 feet	75 feet

326.2 Setbacks:

326.21 Minimum front setbacks shall be as specified for the underlying zoning district(s).

326.22 Structures shall be set back a minimum of fifteen (15) feet from all side and rear property lines, or the setback required by the underlying zoning, whichever is greater, except as modified by section 326.3.

326.3 Where Abutting Residential Districts and/or Uses:  
Except for the RCP Overlay District, the minimum setbacks for structures located adjacent to residential districts or existing residential uses shall be thirty (30) feet. (Art. 1, Fall S.T.M. #1, 10/18/05)

326.4 Dimensional Regulations in MC Overlay District

The Planning Board may also grant a special permit to permit a project authorized in either the MC Overlay District or the Regional Center Mixed-Use Overlay District, in lieu of the dimensional requirements of the underlying zoning district (including the RC District as part of the HOD District) to be subject to the following dimensional requirements:

Frontage: 200 feet



Building Setback from a Public Way:	50 feet (provided, however, the Planning Board may, by granting a special permit, reduce this setback to accommodate circulation or road improvements)
Parking Structure Setback from Public Ways:	for at grade or higher levels, 50 feet from public ways; below grade levels do not require a setback
Maximum Height of Building or Structure:	80 feet or 8 stories
Side and Rear Yard:	20 feet but zero feet for buildings along their walls through which there is enclosed pedestrian access or solely to permit connections between parking structures and buildings. (Art. 39, ATM, 4/11/06)

(Art. 1, S.T.M. #2, 12/03/02) (Art. 1, Fall STM #1, 10/18/05)

## **Section 327. LANDSCAPING REQUIREMENTS**

The Planning Board shall adopt Rules and Regulations which implement the General Purpose and Intent, as well as the Objectives of this Section 327. Those Rules and Regulations shall provide a guide to good landscaping practices and shall set forth the desired standards which are intended to achieve specific performance objectives. However, the Planning Board may approve alternative plans where the applicant desires to deviate from the specific requirements of such Rules and Regulations, if the Board finds that such alternative is clearly more feasible and/or preferable, and that the proposed arrangement meets the general purpose, intent, and objectives of Section 327.

### **327.1 Applicability:**

The requirements of this section 327 shall apply to any new structure, and to any major alteration, to any change of use of an existing structure, or as

may be required in connection with site plan review under the zoning regulations applicable in the underlying zoning district.

**327.2 Technical Requirements:**

All site plans and special permits required hereunder shall include a landscape plan and planting schedule prepared by a registered landscape architect, unless waived in accordance with Section 329.2.

**327.3 General Purpose and Intent:**

The requirements and standards set forth in this Section 327 are intended to achieve specific performance objectives, as described below, to enhance the visual quality of the areas within the Highway Overlay Districts, to encourage the creation and protection of open space, to avoid expansive development of impervious surfaces, to protect and preserve the area's ecological balance and to ensure that landscaping is an integral part of development.

**327.4 Objectives:**

In order to accomplish the General Purpose and Intent of this Section 327 specific objectives shall be accomplished by landscape plans, which shall include the following:

327.41 Buffer strips at the front of lots shall contribute to the creation of tree-lined roadways and shall create a strong impression of separation between the street and the developed area of the site without necessarily eliminating visual contact between them.

327.42 Buffer strips adjoining or facing residential zoning districts or uses shall provide the strongest possible visual barrier between uses at pedestrian level and create a strong impression of spatial separation.

327.43 Landscaping within parking areas shall provide visual and climatic relief from broad expanses of pavement and shall be designed to define logical areas for pedestrian and vehicular circulation and to channel such movement on and off the site.

327.44 All required landscaping shall be located entirely within the bounds of the parcel.

327.45 To the greatest feasible extent, existing healthy, mature vegetation shall be retained in place or transplanted and reused on site.

**327.5 Landscaped Buffer Strips:**

327.51 General Standards: In the highway corridor and regional center areas, a landscaped buffer strip shall be provided separating all buildings, parking areas, vehicular circulation facilities, or similar improvements from the right-of-way line of any public street, or any private way which is adjudged by the Planning Board to perform an equivalent function. Plantings in landscaped buffer strips shall be arranged to provide maximum protection to adjacent properties and avoid damage to existing plant material. The landscaped buffer strip shall include the required planting as set forth herein or in the Rules and Regulations of the Planning Board, and shall be continuous except for required vehicular access points and pedestrian circulation facilities, including sidewalks. All required landscaping amenities shall be located within the bounds of the parcel. All signs to be constructed in any development subject to Site Plan Review under the Highway Overlay District Regulations shall be subject to the issuance of a special permit by the Planning Board.

327.52 Specific Standards:

327.521 Depth: Unless a greater depth of landscaping is required in the underlying zoning district, landscaped buffer strips shall be one-third ( $1/3$ ) of the distance between the street right of way and any building line, but shall not be less than fifteen (15) feet in depth, and need not be greater than fifty (50) feet in depth. Sidewalks shall be excluded from calculation of the buffer depth, unless required by the development plan and not located in the public right of way. Landscaped buffer strips adjoining or facing residential districts or uses shall be a minimum of fifteen (15) feet in depth.

327.522 Composition: The buffer strip shall include a combination of deciduous or evergreen trees and lower-level elements such as shrubs, hedges, grass, groundcover, fences, planted berms, brick or stone walls. When necessary for public safety or to prevent adverse impacts on neighboring properties, the Planning Board may require that the buffer strip contain opaque screening.

327.523 Arrangement: Arrangements may include planting in linear, parallel, serpentine, or broken rows, as well as the clustering of planting elements.

327.524 Opaque Screens: An opaque screen may be comprised of walls, fences, berms, shrubs or evergreen plantings, or any combination thereof. Opaque screens shall be opaque in all seasons of the year. For developments adjoining or facing residential districts or residential uses, or when necessary for public safety or to prevent adverse impacts on neighboring properties, a buffer strip shall contain opaque screens.

327.525 Berms: When berms are used to meet the requirements for a buffer strip they shall be planted with living vegetation. The minimum top width of a berm shall be three (3) feet, and the maximum side slope shall be 3:1. No more than twenty-five per cent (25%) of the coverage of a planted berm shall be mulch or non-living material.

327.526 Mulches: When used in required landscaping or buffers, mulches shall be limited to bark mulch and decorative stone, or equivalent materials. No more than twenty-five per cent (25%) of the coverage of the landscaped area shall be mulch or non-living material.

327.6 Standards for Landscaping within Off-Street Parking Areas: Parking areas shall be broken into sections. Sections shall be separated by landscaped buffers to provide visual relief. At a minimum, the buffers shall consist of islands which shall be a combination of "divider islands" and "terminal islands". Terminal islands shall be used either to separate parking spaces from driveways and other vehicular travel lanes, or to break up large numbers of parking spaces in a single row of spaces. Landscaped terminal islands shall be provided at the ends of rows of parking where such rows are adjacent to driveways or vehicular travel lanes.

327.7 Landscaping Adjacent to Buildings: Landscaped areas at least ten (10) feet in depth shall be provided adjacent to buildings on every side of such buildings that has a public access point. This requirement may be waived by the Planning Board in cases where it is impractical to provide the specified depth of landscaped area due to the size, shape or other characteristics of the parcel; however, in no case shall any parking space or vehicular travel lane be located less than five (5) feet from the building.

327.8 Design for Pedestrian Circulation

327.81 Pedestrian Access Through Buffers and Screens:

Landscaped buffers should, to the greatest extent possible, serve as usable open space, providing an environment for pedestrian access between uses. Therefore, buffers shall be designed to include appropriate means of pedestrian access and crossing, both along the landscaped area (i.e., in a parallel direction with the property line) and across the buffer (i.e., providing pedestrian access to the site, separate from vehicular access points). Buffers and screens shall provide for appropriate hard-surfaced pedestrian access points and walkways where property lines abut existing or planned public streets, whether or not such streets have been constructed.

#### 327.82 Pedestrian Circulation in Parking Facilities

Parking facilities and appurtenant driveways shall be designed so as to gather pedestrians out of vehicle travel lanes and to maximize the safety and convenience of pedestrians walking between parked cars and business entrances as well as between external points and locations on site. Pedestrian walkways shall be integrated, to the maximum extent possible, into the interior and/or perimeter landscaping of parking lots; and shall be constructed with a paved or similarly firm surface, separated from vehicular and parking areas by grade, curbing and/or vegetation, except for necessary ramps.

#### 327.83 Pedestrian Circulation Adjacent to Buildings

A pedestrian walkway having a minimum width of six (6) feet shall be integrated into, and shall be in addition to, any required landscaped area adjacent to buildings.

(Art. 8 S.T.M., 6/13/95)

#### 327.9 Pervious Landscaping:

Up to five (5) per cent of the area counted as pervious landscaping may include pedestrian circulation components such as walkways. Parking areas surfaced with porous pavement shall not be considered pervious landscaping.

#### 327.10 Maintenance:

327.101 The owners and developers of any lot shall be responsible for the maintenance of all landscaped open space and buffers. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.

327.102 Appropriate water management procedures shall be followed to serve all landscaped areas.

327.103 The Planning Board may require a bond to ensure that required landscape plantings are maintained and survive for up to two (2) growing seasons following completion of planting.  
(Art. 5, S.T.M. #2, 10/10/00)

327.11 Intersection Sight Distance Restrictions: Landscaped buffers and screening shall not restrict sight distances at intersections or driveway entrances. Site distance requirements, location and specification of site zones shall be determined by reference to the current edition of the Commonwealth of Massachusetts Department of Public Works Highway Design Manual, or any successor publication. As a guide, no fence or other structure may be erected, and no vegetation may be maintained, between a plane two and one-half (2-1/2) feet above curb level and a plane seven (7) feet above intersecting roadway levels within the zone required for sight distance, subject however to actual roadway profiles of the intersecting streets and/or driveways.

327.12 Occupancy Permits:

327.121 No occupancy permit, whether temporary or permanent, shall be granted by the Building Inspector, until the Planning Board has voted its approval that all landscaping and buffer strips conform to the approved landscape plan and planting schedule, or thirty (30) days has elapsed since the filing of a written request for such approval with the Building Inspector and Planning Board.

327.122 In cases where, because of seasonal conditions or other unforeseen circumstances, it is not possible to install or complete landscaping prior to initial occupancy of the building(s), an occupancy permit may be granted by the Building Inspector, upon the approval of the Planning Board, provided that the owner shall make a payment to the Town, to be held in escrow by the Planning Board, to ensure that required landscape planting is installed and maintained. The amount of the escrow payment shall be set by the Planning Board and shall be equal to the full remaining estimated cost of materials and installation, with allowance for escalation and contingencies.

327.123 Release of any escrow amounts, or approval of issuance of an occupancy permit, shall be conditioned upon the receipt by the Planning Board of written certification by a registered landscape architect that the specified plant materials to be included in the project landscaping have been installed according to the approved landscape plan.

## **Section 328. BONUS DENSITY PROVISIONS**

### **328.1 Eligibility for Bonus Floor Space:**

If a proposed improvement or facility in the Regional Center district complies with the standards set forth in section 324.2 above, it shall be eligible for bonus floor area in accordance with the requirements set forth in sections 328.2 through 328.5, inclusive.

### **328.2 Public Benefit Amenity:**

To qualify for bonus floor space, a public benefit amenity must be specifically listed in the Schedule of Benefits below. A public benefit amenity that is a physical space (except for an affordable housing unit) shall be one to which the public is assured access on a regular basis, or an area that is dedicated to and accepted by the Town for public access purposes. Furthermore, to be considered a public benefit amenity, a specific improvement or facility must be determined to provide a public benefit and to be appropriate to the goals and character of the area. In addition, the following requirements must be met:

**328.21 Parks:** To be eligible as a public benefit amenity, a park must meet all of the following standards:

- be at least 2,500 square feet in area;
- have a minimum width of 50 feet;
- be largely buffered and/or screened from nearby roads, parking areas and other vehicular circulation facilities; and
- not be located within the landscape buffer strip required under Section 327.6.

A park exceeding 15,000 contiguous square feet in area may have a smaller minimum width if the Planning Board finds that such linear park can accommodate a way for public access by pedestrians or non-motorized vehicles.(Art. 29, 2015 STM)

**328.211** For purposes of computing bonus credits, no more than one-third of the area of the park shall consist of wetlands, water bodies, steep slopes (over 25%), or other areas not usable for public recreation or leisure activities. On-site park area which meets the above standards and which is not wetlands may be used to satisfy the minimum landscape surface ratio (LSR) requirement. On- or off-site park area may be used to qualify the project for bonus floor area.

328.22 Pedestrian circulation improvement: Such improvements shall be directly accessible to the pedestrian circulation system, and shall where possible connect with existing pedestrian circulation improvements on adjacent parcels and/or provide for connection to such improvements which can reasonably be expected to be developed on adjacent parcels. The following standards shall also be applicable:

328.221 Sidewalk (Off-Site): A sidewalk shall not be on land owned by the applicant or on public or private right-of-way immediately adjacent to frontage of land owned by the applicant.

328.222 Pedestrian Bridge/Tunnel: Bridges or tunnels should have clear functional relationships to adjoining commercial properties and/or public open space amenities. To be eligible as a public benefit amenity, a pedestrian bridge shall not be located entirely on the applicant's property, nor shall it connect a principal use with an accessory use such as a parking structure.

328.23 Service Roads. Driveways and other facilities which principally serve the internal circulation needs of a project, and which provide only a marginal public benefit, shall not qualify as service roads under the provisions of this section 328.

### 328.3 Schedule of Bonuses:

328.31 FAR Increases above 0.32 up to 0.40 (and in the MC Overlay District up to .60) based on Schedule I of Bonuses. An increase in allowable floor area for new construction resulting in a FAR for the entire development which does not exceed 0.40, as permitted in and subject to the requirements of Section 324.2, shall be available in accordance with Schedule I of Bonuses set forth hereafter, if the Planning Board deems that the amenity offered by the applicant accomplishes the purpose, intent and objectives of the Highway Overlay Districts regulations. For development within an MC Overlay District for which a special permit is requested under Section 324.10.1, an increase in allowable floor area shall be permitted if the requirements of Schedule I are met through fulfillment of one or more Public Benefit Amenities.

The "bonus ratio" as used in Schedule I is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, a bonus ratio of one to three (1:3) and an amenity unit of "Square Foot"



means that for each square foot of the amenity the project shall be eligible for three (3) additional square feet of floor area for permitted uses.

### **SCHEDULE I OF BONUSES**

<b><u>PUBLIC BENEFIT AMENITY</u></b>	<b><u>AMENITY UNIT</u></b>	<b><u>BONUS RATIO*</u></b>
OPEN SPACE AMENITIES:		
-Park	Square Foot	1:1
-Excess Pervious Landscaping	Square Foot	1:0.5
-The provision of OPEN SPACE**	Dollar (\$)	20:1
PEDESTRIAN CIRCULATION IMPROVEMENTS:		
-Off-Site Sidewalk	Square Foot	1:1
-Pathway / Bikeway	Square Foot	1:1
-Pedestrian Bridge	Square Foot	1:1
PUBLIC ASSEMBLY SPACE:	Square Foot	1:5
ROAD LINK:***	Dollar (\$)	20:1
TRAFFIC IMPROVEMENTS:		
-Service Road (24 - 30 ft. paved width)	Square Foot	1:3
-Curb-cut Closure	Number Closed	1:15,000
TRANSIT AMENITIES:		
-Transit-related lane widening	Square Foot	1:2
-Traffic Management Project****	Dollar (\$)	20:1
OFF-SITE AFFORDABLE HOUSING:		
-Provision by developer	Affordable Unit	1:4,000
-Town's Housing Corporation contribution	Dollar (\$)	20:1

\* Bonus Ratio = Amenity / Floor Area

\*\* Open Space shall be valued in accordance with Section 324.724 or a contribution made to the Town's Conservation Open Space Fund.

\*\*\* Road Link shall include the cost of the acquisition of the land (or the rights therein) whether incurred directly or reimbursed to other parties required for the roadway and the design and construction of the elements thereof which form the intersections with public or private way to which it connects.

\*\*\*\* Traffic Management Project shall include the provision of land for, and/or the design and construction of roadway improvements, as well as the support of public transportation, within the Town.

(Art. 1, S.T.M. #2, 12/3/02)

328.32- FAR Increases up to 0.55 based on Schedule II of Bonuses in the RC District. The Planning Board may, by Special Permit, grant an increase in the FAR up to a maximum FAR of 0.50, subject to the requirements of Sections 324.2.1 and 324.2.2, only for parcels located in the RC District. In addition, an increase in the FAR up to a maximum FAR of 0.55 may be granted by the Planning Board for those certain residential uses defined in Section 323.3, subject to the requirements of Sections 324.2.1 and 324.2.2, only for parcels located in the RC District.

Notwithstanding any provision in this by-law to the contrary, all parcels located in the RC District, shall be required, as a condition for increasing its FAR above 0.32 up to a maximum of 0.55; to provide Open Space as a public benefit amenity if it is in the ratios shown in the following "SCHEDULE II OF BONUSES":

#### **SCHEDULE II OF BONUSES**

<b><u>PUBLIC BENEFIT AMENITY</u></b>	<b><u>AMENITY UNIT</u></b>	<b><u>BONUS RATIO*</u></b>
For FAR increases from 0.32 up to 0.55:		
-OPEN SPACE Having the value ** of	Dollar (\$)	20:1

\* Bonus Ratio = Amenity / Floor Area

\*\* OPEN SPACE shall be valued in accordance with Section 324.724 or a contribution made to the Town's Conservation Open Space Fund.

The "bonus ratio" as used in Schedule II of Bonuses is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32. For example, the bonus ratio of twenty to one (20:1) and an amenity unit of "Dollar (\$)" means that for each Twenty Dollars Open Space Value as determined in accordance with Section 324.7.2.4, the project shall be eligible for one (1) additional square foot of floor area for permitted uses.

(Art. 5, S.T.M. #2, 10/10/00) (Art. 1, S.T.M. #2, 12/3/02)

328.33 FAR increases up to 1.00 based on Schedule III of Bonuses in the RCP District solely for a Regional Center Mixed-Use Development that meets the Affordable Housing Standard. The Planning Board may, by Special Permit grant an increase in the FAR up to a maximum FAR of 1.00 subject to the requirements of the second paragraph of Section 324.5 only for such Regional

Center Mixed-Use Development. The assessment provided for in Schedule III of Bonuses shall be reduced by a total percentage not exceeding the sum of the percentage of affordable units as defined in Section 200, Affordable Housing Standard, plus the percentage of such qualifying units in excess of ten percent.

Notwithstanding any provision in this by-law to the contrary, all parcels located in the RCP District, which are proposed to have an FAR in excess of .32 and are to be developed as a Regional Center Mixed-Use Development, shall be required, as a condition for increasing its FAR for the housing component thereof as permitted under Section 324.5 to provide Open Space as a public benefit amenity if it is in the ratios shown in the following “SCHEDULE III OF BONUSES” as to the residential portion thereof (the shopping mall portion thereof shall be governed by the provisions of SCHEDULE I OF BONUSES):

### **SCHEDULE III OF BONUSES**

PUBLIC BENEFIT AMENITY	AMENITY UNIT	BONUS RATIO*
For FAR increases from 0.32 up to 1.00:		
-OPEN SPACE Having the value ** of	Dollar (\$)	10:1

\* BONUS RATIO = Amenity/Floor Area

\*\* OPEN SPACE shall be valued in accordance with Section 324.724 or a contribution made to the Town’s Conservation Open Space Fund.

The “bonus ratio” as used in Schedule III of Bonuses is the ratio of the unit of public benefit amenity provided, to the floor area permitted for bonus projects in excess of a FAR of 0.32 as provided in the second paragraph of Section 324.5. For example, the bonus ratio of ten to one (10:1) and an amenity unit of “Dollar (\$)” means that for each Ten Dollars Open Space Value as determined in accordance with Section 324.724, the project shall be eligible for one (1) additional square foot of floor area for permitted uses.  
(Art. 1, Fall STM #1, 10/18/05)

#### **328.4 State-mandated Amenities:**

The Planning Board may grant bonus floor area for a public benefit amenity that is not specifically listed in paragraph 328.3 above, only when all of the following conditions are met:

- the provision of such amenity has been mandated as part of a State approval process,
- the provision of the alternative improvement furthers the objectives of this section 328, and

- the improvement is at least equivalent in value and effect to a listed public benefit amenity which would qualify the development for the proposed amount of bonus floor area.

328.5 Prospective Bonus Agreements: A project in the RC district, which proposes to provide a public benefit amenity but not to utilize the full FAR increase which the amenity makes possible, may enter into a prospective bonus agreement (PBA) with the Planning Board as a condition of the Board's granting of a Special Permit and Site Plan Approval. The PBA shall define the specific nature of the public benefit amenity and the amount of FAR and additional floor area for which the parcel shall become eligible as a result of provision of the improvement. The only effect of a PBA shall be to increase the allowable FAR of the development, subject to all other requirements of this section 328. The approval of a PBA by the Planning Board shall not be deemed to supersede or waive any of the other provisions of this section 328, nor shall such approval be considered to represent the granting of special permit and site plan approval for any future development.

#### 328.6 Continuing Obligation for Bonuses.

328.61 Where a bonus is granted, the applicant shall covenant to ensure the continued use of the bonus facility or improvement for the purpose for which the bonus was granted. Such covenant shall be recorded as a condition of the special permit and shall run with the land.

328.62 An applicant who constructs a pedestrian circulation improvement shall be responsible for the maintenance and upkeep of the improvement, unless it has been dedicated to and accepted by the Town. If the improvement is not maintained, the Town may, at its sole option, place a lien on the property, maintain the improvement, and seek reimbursement from the owner.

328.7 Where an applicant has made payments to governmental agencies (other than to the Town of Natick), and such payments are for the purpose of the acquisition, improvement, or use of land within the Town for public use, the Planning Board may provide a credit up to the amount of such payments against any of the requirements for providing Open Space in these Highway Overlay Districts Regulations, provided that the Planning Board makes a finding that the payments made or credits given provide similar benefits to the Town as would have resulted from additional Open Space being provided to the Town (see Sec. 320 et seq.).

(Art. 5, S.T.M. #2, 10/10/00)

## **Section 329. ADMINISTRATION**

The review procedures set forth herein are intended to apply in the RC and HC districts, in addition to the requirements of the underlying zoning district. In administering such procedures and requirements, the Planning Board shall apply the standards of the underlying zoning district if such standards, procedure and requirements are more restrictive than set forth in these Highway Overlay District Regulations. The Planning Board shall be the Special Permit Granting Authority for all special permits granted under these Highway Overlay District Regulations.

### **329.1 Special Permit with Site Plan Review**

329.11 A special permit with site plan review is required for any proposed development which meets one or more of the following criteria:

- The proposed development will exceed a FAR of 0.32;
- The proposed development will not comply with an applicable requirement of sections 320 - 329, inclusive;
- The proposed development will require a special permit under the underlying zoning as modified by provisions of the Highway Overlay District Regulations.
- The proposed development will combine residentially zoned lot(s) with non-residentially zoned lot(s), regardless of the resultant FAR.

329.12 For all bonus projects, and projects requiring a special permit under the underlying zoning, the Planning Board shall be the Special Permit Granting Authority. The procedures for site plan submission, review and approval shall be as set forth under Section VI-DD of these Bylaws, as specifically modified by other provisions of these Highway Overlay District Regulations.

329.2 Modifications and Waivers: The SPGA may modify and/or waive strict compliance with one or more of these requirements, regulations, and objectives set forth in this Section, in accordance with Section V-E. The Planning Board shall not grant a waiver of the FAR regulations set forth in Section 324, except with respect to redevelopment projects which retain all or any part of prior-existing structures. (Art. 5, S.T.M. #2, 10/10/00) (Art. 37, Spring ATM, 4/11/2017)

329.3 Mutual Review: It is the intent of this Section to provide an opportunity for regional review of proposed developments in the Regional Center district. Review and comment by the Planning Board of the Town of Framingham is specifically encouraged. In its review of a site plan, the

Natick Planning Board shall consider any comments submitted by the Planning Board of the Town of Framingham.

329.31 If the size of the proposed structure exceeds 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Framingham and shall meet with the Planning Board of Framingham to describe the project, if requested by the Framingham Planning Board.

329.32 If the size of the proposed structure is less than 50,000 square feet, the applicant shall submit one complete set of application documents to the Town of Framingham. The Planning Board of Framingham shall be notified of the dates of all public hearings held by the Natick Planning Board regarding the project.

(Art. 7, S.T.M. #1, 2/3/93)